

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:10-HC-2201-BO

DAVID LOUIS RICHARDSON,)
Petitioner,)
)
v.)
)
TRAVIS OUTLAW,)
Respondent.)

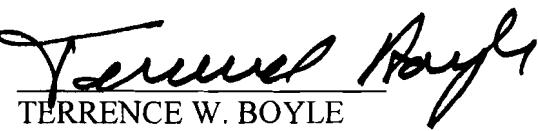
ORDER

David Louis Richardson (“petitioner”), a state inmate, petitions this court for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Respondent has filed a motion to dismiss on grounds of successiveness. (D.E. #7) Before a second or successive application for habeas relief may be filed in the district court, an applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application. 28 U.S.C. § 2244(b)(3)(A). Petitioner previously filed two petitions seeking habeas relief in this district. Richardson v. North Carolina, 5:07-HC-2099-FL (E.D.N.C. filed May 18, 2007) and Richardson v. Smith, 5:07-HC-2213-BO (E.D.N.C. filed Nov. 28, 2007).

Both habeas petitions have extensive histories and both habeas petitions granted relief on singular and separate grounds. The first habeas petition was appealed and reversed by the Fourth Circuit. The undersigned’s order in the second habeas granting relief as to ineffective assistance of counsel based on failure to file an appeal was not appealed. Interestingly, the State of North Carolina did grant a belated appeal for petitioner and petitioner’s release was not required. The petitions falls within, and invokes the requirements of, 28 U.S.C. § 2244(b)(3)(A). The court further notes, petitioner has filed another habeas under 28 U.S.C. § 2254 in February of this year. Richardson v. Outlaw, No. 5:11-HC-2038-D (E.D.N.C. filed Feb. 18, 2011).

This court does not have jurisdiction to review the matters set forth in the current petition until authorized to do so by the United States Court of Appeals for the Fourth Circuit. 28 U.S.C. § 2244(b)(3)(A). Accordingly, respondent's motion is ALLOWED (D.E. # 7) and petitioner's habeas claims are DISMISSED without prejudice to allow petitioner to seek authorization to file this application in the Eastern District of North Carolina. The case is CLOSED and all other pending motions are DENIED as MOOT.

SO ORDERED. This 3 day of May 2011.


TERRENCE W. BOYLE
United States District Judge